IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.55625 of 2006
SANJAY KUMAR KANOJIYA @ SANJAY KANOJIYA
Versus
STATE OF BIHAR & ANR
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6 17.9.2008 Heard learned counsel for the petitioner as also learned counsel for O.P. No. 2, the complainant, and the learned A.P.P. for the State.

The grievance of the petitioner is directed against the order dated 29.7.2005 passed by Sri N. Pandey, Judicial Magistrate, 1st Class, Jhanjharpur in Complaint Case No. 92 of 2005, whereby he has taken cognizance for offences under sections 323, 341, 379 and 161 I.P.C..

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It has been submitted on behalf of the petitioner that from a bare perusal of the complaint petition it would appear that the entire allegation are not only frivolous, highly improbable and in that view of the matter the prosecution of the petitioner would be an absolute abuse of the process of the Court.

On the other hand the learned counsel for O.P.No. 2 submits that this application is not maintainable since the petitioner had preferred criminal revision No. 1332 of 2005 before the Sessions Court challenging the order taking cognizance and the revisional court had been pleased to dismiss the same. On this premise the learned counsel or O.P. No. 2 states that since the revisional court order has not been challenged it has now become final and in this court in exercise of powers under section 482 Cr.P.C. cannot now look into the propriety or otherwise of the order taking cognizance.

The submissions advanced by the learned counsel for O.P. No. 2 appears to be well founded. That apart it is by now well settled by a catena of decisions that when cognizance is taken of an offence following an inquiry under section 202 Cr.P.C. the Magistrate holding the inquiry is required only to see the intrinsic value of the evidence that has come and whether such evidence is sufficient to proceed against the accused. At this stage the Magistrate is not required to look into any other material apart from what have come at the inquiry under section 202 Cr.P.C. For the purpose, gainful reference may be placed on the decision of Chandradeo Vs. Prakash : AIR 1963 SC 1430.

In view of the discussions made above I find no merit in this application which is dismissed.

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Spd/- **(Abhijit Sinha, J.)**